IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8281 OF 2005

Shri Nanasaheb Namdeo Karande ..Petitioner

Vs.

Shetakari Sahakari Dudh Utpadak
va Puravatha Sangh Ltd. ..Respondent

Mr. S.P. Kadam for petitioner.

CORAM: B.H. MARLAPALLE, J.

Date : November 30, 2007.

P.C.:

1. Heard Mr. Kadam the learned counsel for the petitioner who is aggrieved by the Judgment and Order dated 15/4/2005 rendered by the learned Member of the Industrial Court at Sangli thereby dismissing Complaint (ULP) No. 10 of 1993 (originally registered as Complaint (ULP) No.42 of 1993 at Kolhapur) and filed under Item 9 of Schedule IV of the M.R.T.U. & P.U.L.P. Act, 1971 (the Act for short).

2. Initially the petitioner was terminated from

service by the respondent-society with effect from 10/10/1988 and the said termination order came to be challenged by filing Complaint (ULP) No. 228 of 1988 before the Labour Court. The said complaint was allowed on 7/4/1993 and the petitioner was directed to be reinstated with full backwages. Inspite of his approaching the respondent-society, he was not reinstated and, therefore, he filed a fresh complaint before the Industrial Court which came to be registered as Complaint (ULP) No. 42 of 1993 at Kolhapur and subsequently registered as Complaint (ULP) No. 10 of 1993 at Sangli for the execution of the order passed by the Labour Court on 7/4/1993 in Complaint (ULP) No. 228 of 1988. It appears thereafter the respondent-society challenged the order passed by the Labour Court on 7/4/1993 in Revision Application (ULP) No. 79 of 1993 and the said revision was dismissed by the Industrial Court on 13/1/1995. Consequently the petitioner came to be reinstated in service with effect from 2/12/1995. In the meanwhile the respondent-society had also filed Writ Petition No. 2291 of 1995 before this court challenging the order of reinstatement and the said

petition was dismissed on 9/11/2001.

3. The learned Member of the Industrial Court by the impugned order has held that the complaint was not maintainable under Item 9 of Schedule IV of the Act in as much as the order passed by the Labour Court in Complaint (ULP) No. 228 of 1988 could not be termed as an award. Even otherwise, if the relief granted in favour of the petitioner by the Labour Court was not being extended to him, his remedy was either to file criminal complaint under Section 48 of the Act or to move an application under Section 50 of the Act for recovery of money due from the employer. For the implementation of an award passed under Industrial Disputes Act, 1947, a complaint under Item 9 of Schedule IV of the Act can lie, but the Act being a self sufficient Code and it has made sufficient provisions for the execution of the orders passed therein, the Legislature in its wisdom has used the words "award, settlement or agreement" in Item 9 of Schedule IV of the Act and the scope of these words cannot be enlarged by the Industrial Court while dealing with a complaint of unfair labour practice,

though the scope of the terms "settlement" or "agreement" could in a given case be extended, but the term "award" has been specifically defined under Section 2 (b) of the Industrial Disputes Act, 1947 and it means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under section 10A. The term "industrial dispute" as defined under I.D. Act cannot be equated with the term "unfair labour practice" as defined under the Act. I, therefore, find no case to hold that the impugned order passed by the Industrial Court suffers from any errors apparent on the face of the record and consequently there is no case made out to cause interference under Article 227 of the Constitution.

4. Hence, the petition is rejected summarily.

. Dismissal of this petition will not come in the way of the petitioner for seeking any alternative remedy that may be available in law.

(B.H. Marlapalle,J.)